

# Indiana Election Commission

## Minutes

### April 28, 2006

**Members Present:** Thomas E. Wheeler, II, Chairman of the Indiana Election Commission (“Commission”); S. Anthony Long, Vice Chairman of the Commission; Thomas E. John, member of the Commission; Sarah Riordan, Proxy for Butch Morgan, member of the Commission.

**Members Absent:** Butch Morgan

**Staff Attending:** J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Kristi Robertson, Co-Director of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Cody Kendall, Co-General Counsel of the Election Division.

**Also Attending:** James M. Ries, John R. Price, Tami D. Wenning, Maureen Bard, Michael A. Smith, Lesley Weidenbener, Niki Kelly, Rich Van Wyk, and Mary Beth Schneider.

#### 1. Call to Order

The Chair called the April 28, 2006 meeting of the Commission to order at 2:00 p.m. in the Indiana Government Center South Conference Center, Room, at 402 West Washington Street Room E-204, Indianapolis, Indiana.

The Chair noted that proper notice of the meeting had been given, as required by state law, and that Ms. Riordan was present as the designated proxy for member Butch Morgan. A copy of the meeting notice, agenda, and designations of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

**2. Voting Systems Applications for Certification for Term Ending October 1, 2009:** MicroVote General Corporation (MicroVote) application for certification of an upgrade to a previously certified direct record electronic voting system: Infinity direct record electronic system: hardware version VP-1 Infinity Revision C; Firmware version VP-1 Revision C 3.0.7; Software version Infinity Election Management Software Version 3.1.

The Chair recognized Mr. King who referred Commission members to the memorandum in the Commission’s packet regarding MicroVote’s pending application for voting system certification for an upgrade to the Infinity, a previously certified direct electronic voting system. He explained that pursuant to the Commission’s discussion during its April 19, 2006 meeting, MicroVote’s previous application relating to an upgrade of the Infinity

voting system, dated March 20, 2006, would not be considered by the Commission since it was unsigned and otherwise incomplete. He added that MicroVote filed a second application relating to an upgrade of the Infinity on April 18, 2006 and that Election Division staff met with representatives of MicroVote at the Commission's direction following the Commission's April 19, 2006 meeting to determine if each of the required items set forth in MicroVote's application had been submitted with the application.

Mr. King stated that, on April 21, 2006, MicroVote filed a third application for approval of an upgrade to the Infinity. He explained that, based upon staff's review, this application includes each of the 11 required application items set forth on page 2 of the application.

Mr. King indicated that the April 18 application filed by MicroVote was not accompanied by an application fee. He added that, on April 21, 2006, MicroVote submitted two checks in the amount of \$1,500 each as an application fee for both the April 18 application and the April 21 application. He explained that the Election Division deposited the application fee tendered on March 20 and one of the fees tendered on April 21, however, based on the Commission's April 19, 2006 discussion of the status of the March 20 application, the Election Division has not yet deposited the second of the two fees tendered on April 21, 2006. He indicated that the Election Division sought guidance from the Commission as to whether the second April 21 fee should be deposited or returned.

The Chair recognized Mr. Long who indicated that he did not consider the March 20 application to be an application. He indicated that this application was a nullity. He added that it was his view that the two application fees should be applied to the two pending applications. The other Commission members indicated their agreement with Mr. Long.

Mr. King continued and explained that, with respect to the escrow of the voting system software, MicroVote provided a letter dated April 18 certifying that Infinity Firmware version 3.04 and Election Management Software version 3.1 had been sent to NCC Group, a software escrow company. He added that the Election Division received a letter dated April 24 from NCC acknowledging the escrow of firmware version 3.07 and a letter dated April 25 acknowledging the escrow of the system software. Mr. King indicated that he confirmed, in a telephone call with Ms. Monica Roscelli of NCC, that the State of Indiana was a third party licensee with rights of access to the escrowed material.

Mr. King indicated that hardware and original firmware for the Infinity voting system was demonstrated to the Commission as part of its initial certification in 2002.

Mr. King explained that MicroVote submitted a test report from Independent Testing Authority ("ITA") Wyle Laboratories dated March 20 and April 18 stating that the Infinity firmware version 3.04, successfully met the hardware qualification test requirements of the 2002 FEC voting system standards. He added that the Wyle report indicates that the software testing for the voting system was being performed by a software ITA which would issue its results under a separate report. He indicated that the

Election Division received letters from CIBER, a software ITA, dated April 21 and April 23. CIBER's report stated that testing of both the Infinity firmware version 3.07 and software version 3.1 had been completed and that all tests conducted indicate compliance with the FEC 2002 voting system standards.

Mr. King indicated that the Election Division received another letter from Wyle dated April 24 stating that Wyle had completed its testing of version 3.04 of the firmware, and that no additional testing by Wyle was necessary for confirmation that version 3.07 of the firmware. He added that Mr. Ries, president of MicroVote, filed a statement with the Election Division clarifying that Wyle had transferred testing responsibilities to CIBER with regard to firmware version 3.07.

Mr. King indicated that, while the Election Division has received letters from CIBER, the Election Division has not yet received the full report from CIBER.

Mr. King concluded by stating that the Co-Directors recommend to the Commission that MicroVote's application for approval of an upgrade to the Infinity voting system be approved subject to MicroVote filing a copy of the full CIBER report within 7 days after MicroVote receives the report and that the report indicates compliance with FEC 2002 voting system standards. He indicated that, subject to these conditions, the Co-Directors recommended that the Infinity direct record electronic system, hardware version VP-1 Infinity Revision C; Firmware version VP-1 Revision C 3.0.7; Software version Infinity Election Management Software Version 3.1; be approved for marketing, sale, leasing, installation, and implementation in Indiana, for a term expiring October 1, 2009.

The Chair called for additional discussion. There being no further discussion the Chair indicated that he would entertain a motion on the recommendation of the Co-Directors.

Mr. Long moved, seconded by Mr. John, that the Commission approve the Infinity direct record electronic system, hardware version VP-1 Infinity Revision C; Firmware version VP-1 Revision C 3.0.7; Software version Infinity Election Management Software Version 3.1; be approved for marketing, sale, leasing, installation, and implementation in Indiana, for a term commencing April 28 and expiring October 1, 2009 subject to MicroVote filing the full CIBER report within seven days of receipt and the report indicate compliance with 2002 FEC voting system standards.

There being no further discussion the Chair called the question on the pending motion, and declared that with four members voting "aye" (Mr. Wheeler, Mr. Long, Mr. John and Ms. Riordan), and no Commission member voting "no," the motion was adopted.

### **3. Adjournment**

There being no further items on the Commission's agenda, the Chair entertained a motion to adjourn. Mr. Long moved, seconded by Mr. John, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting "aye"

(Mr. Wheeler, Mr. Long, Mr. John and Ms. Riordan), and no Commission member voting “no,” the motion was adopted. The Commission then adjourned at 2:15 p.m.

Respectfully submitted,

J. Bradley King  
Co-Director

Kristi Robertson  
Co-Director

**APPROVED:**

**Thomas E. Wheeler, II**  
**Chairman**